

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

UNITED STATES OF AMERICA, ) 2:96-CR-00201-ECR-PAL  
)  
Plaintiff, ) MINUTES OF THE COURT  
)  
vs. ) DATE: November 10, 2010  
)  
JERRY LEE JOHNSTON, JR., )  
)  
Defendant. )  
)

PRESENT: EDWARD C. REED, JR. U. S. DISTRICT JUDGE

Deputy Clerk: COLLEEN LARSEN Reporter: NONE APPEARING

Counsel for Plaintiff(s) NONE APPEARING

Counsel for Defendant(s) NONE APPEARING

# MINUTE ORDER IN CHAMBERS

On November 1, 2010, Defendant filed a "Motion In Forma Pauperis for Ineffective Assistance of Counsel" (#969) and a "Motion Ineffective Assistance of Counsel" (#970).

The motions (## 969 and 970) will be treated as motions pursuant to 28 U.S.C. § 2255 to vacate, set aside, or correct the sentence. The motions are filed long past the expiration of the statute of limitations in such cases. The one year statute of limitations provided for in 28 U.S.C. § 2255(f) runs from the latest of--

- (1) the date on which the judgment of conviction becomes final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

This case was closed on December 14, 1998. The motions assert no factual or legal bases on which the motions could be considered timely. Defendant has not shown any basis to waive or toll the statute of limitations.

**IT IS, THEREFORE, HEREBY ORDERED** that Petitioner's "Motion In Forma Pauperis for Ineffective Assistance of Counsel" (#969) is **DENIED** as untimely.

**IT IS FURTHER HEREBY ORDERED** that Petitioner's "Motion Ineffective Assistance of Counsel" (#970) is **DENIED** as untimely.

LANCE S. WILSON, CLERK

By                     /s/                      
Deputy Clerk